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EXAMINER

EWART, JAMES D

ART UNIT PAPER NUMBER

2683

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/783,062	Applicant(s) HILTUNEN ET AL.	
	Examiner James D. Ewart	Art Unit 2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 58-78 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 58-78 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-57 of U.S. Patent No. 6,754,484. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are simply broader than in the parent application. Claims 58 and 68 of the current application are broader than claim 1 of Patent No. 6,754,484 in that they do not include the limitations of "specific or designated recipient device" and "without communication with a remotely located central database". Claims 63, 73 and 78 of the current application are broader than claim 18 of Patent No. 6,754,484 in that they do not include the limitations of "specific or designated recipient device", "without communication with a remotely located central database" and "storing, by specific one beacon the message".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 58-60 and 68-70 are rejected under 35 USC 103(a) as being unpatentable over O'Hagan (U.S. Patent No. 6,595,417) in view of Ogasawara (U.S. Patent No. 6,513,015).

Referring to claim 58 and 68, O'Hagan teaches a method of wireless communication in a local environment, comprising the steps of: positioning an information beacon in a certain location (Figure 1; 12,18 and 20), said information beacon having a memory (Figure 1; 12) and a wireless short-range transceiver (Figure 1; 18) and being capable of transmitting messages in a local operating region associated with said beacon (Figure 1; 12,14 and 18 and Column 15, Lines 28-40); receiving, by said beacon, a public message from a sender device (Figure 1; 34), wherein the public message is addressed to be accessible by any wireless communication device present within the local operating region of said beacon (Figure 1; 12,14 and 18); storing, by said beacon, the received public message (Column 3, Lines 21-30 & 45-48 and Figure 1); detecting, a presence of a wireless communication device when the wireless communication device enters the operating region of said beacon (Column 15, Lines 28-45), without said beacon communicating with any remotely located device (Column 15, Lines 28-45); and wirelessly transmitting, by said beacon, a message including at least an indication of the availability of the stored public message to the wireless communication device when the presence of the wireless

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communication device has been detected (Column 15, Lines 28-40), but does not teach the detection is achieved via the beacon. Ogasawara teaches the detection is achieved via the beacon (Column 3, Lines 62-65 and Column 5, Lines 5-10). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of O'Hagan with the teaching of Ogasawara wherein the detection is achieved via the beacon to provide appropriate shopping assistance to a customer (Column 3, Lines 41-42). Examiner equates enters the operating region of said beacon with when the cart is pushed outside the store or out of range and reenters the detection range.

Referring to claims 59 and 69, O'Hagan further teaches wherein the message comprises the stored public message (Column 15, Lines 28-40).

Referring to claims 60 and 70, O'Hagan further teaches receiving at said beacon, a message request from the wireless communication device upon entering the operating region of said beacon for seeking a public message (Column 15, Lines 31-35) and transmitting the stored public message from said beacon to the wireless communication device in response to the received message request (Column 15, Lines 35-40).

3. Claims 61 and 71 are rejected under 35 USC 103(a) as being unpatentable over O'Hagan in view of Ogasawara and further in view of Brown et al. (U.S. Patent No. 6,665,379).

Referring to claims 61 and 71, O'Hagan and Ogasawara teach the limitations of claims 61 and 71, but do not teach storing the public message for a certain time period. Brown et al

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teaches storing the public message for a certain time period (Column 9, Lines 26-27). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of O'Hagan and Ogasawara with the teaching of Brown et al of storing the public message for a certain time period when the advertisement has expired (Column 9, Lines 26-27).

4. Claims 62 and 72 are rejected under 35 USC 103(a) as being unpatentable over O'Hagan in view of Ogasawara and further in view of Tang et al. (U.S. Patent Publication No. 2002/0086663).

Referring to claims 62 and 72, O'Hagan and Ogasawara teach the limitations of claims 62 and 72, but do not teach wherein the wireless communication device comprises a mobile phone. Tang et al teaches wherein the wireless communication device comprises a mobile phone (0053). Therefore at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the teaching of O'Hagan and Ogasawara with the teaching of Tang et al wherein the wireless communication device comprises a mobile phone to deliver information that define the services that are associated with areas (0005).

Allowable Subject Matter

5. Claims 63-67 and 73-78 would be allowable if the double patenting rejection is overcome. The reason for allowability is explained below:

Referring to claims 63 and 73, the references cited do not teach a method of communicating a public message from a sender device to a wireless communication device in a wireless local area network having a plurality of wireless beacons in communication with each other and a host, with each beacon containing a memory, and a transceiver, and being operable in a corresponding operating region, comprising the steps of: wirelessly transmitting the public message from the sender device to said host; wirelessly transmitting the public message from said host to a specific one of said plurality of beacons; detecting, by said specific one beacon, a presence of the wireless communication device when the wireless communication device enters the operating region of said specific one beacon, without requiring communication between said host and said specific one beacon during said detecting step; and wirelessly transmitting, by said specific one beacon, a message including at least an indication of the availability of the stored public message to the wireless communication device when the presence of the wireless communication device has been detected.

Referring to claim 78, the references cited do not teach a method of communicating a public message from a sender device to a wireless communication device in a wireless local area network having a plurality of wireless beacons in communication with each other and a host, with each beacon containing a memory, and a transceiver, and being operable in a corresponding operating region, comprising the steps of: wirelessly transmitting the public message from the sender device to said host; wirelessly transmitting the public message from said host to a specific one of said plurality of beacons; detecting, by said specific one beacon, a presence of the wireless communication device when the wireless communication device enters the operating

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region of any one of the wireless beacons in said plurality of wireless beacons, without requiring communication between said any one wireless beacon and any other device; and wirelessly transmitting, by said any one wireless beacon, a message including at least an indication of the availability of the stored public message to the wireless communication device when the presence of the wireless communication device has been detected.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Amin U.S. Patent No. 6,014,559 discloses method and system for delivering a voice mail notification to a provate base station using cellular phone network.

Calvert U.S. Patent No. 6,526,275 discloses method for informing a user of a communication device where to obtain a product and communication system employing same.

Herz et al. U.S. Patent No. 6,571,279 discloses location enhanced information delivery system

Hollenberg U.S. Patent No. 6,091,956 discloses situation information system.

McHenry et al. U.S. Patent No. 5,592,533 discloses personal communication service registration system and method.

Rautila U.S. Patent No. 6,714,797 discloses system and method for the transfer of digital data to a mobile device.

Treyz et al. U.S. Patent No. 6,587,835 discloses shopping assistance with handheld computing device.

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Walsh et al U.S. Patent No. 6,144,848 discloses handheld remote computer control and methods for secured interactive real-time telecommunications.

Zyren U.S. Patent No. 6,377,608 discloses pulsed beacon-based interference reduction mechanism for wireless communication networks.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James D. Ewart whose telephone number is (571) 272-7864. The examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571)272-7872. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9306 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

Ewart
July 7, 2005


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